NOTES ON MUNICIPAL GOVERNMENT.

AMERICAN CITIES.

New York City.*—The views of the commission appointed by the Governor of New York to inquire into the governmental needs of cities of the third class have been embodied in a bill presented to the State Legislature. The bill shows a tendency to extend to smaller cities the same principles which have characterized the recent changes in the government of the larger cities of the United States. The legislative bodies of these smaller cities were for a long time able to retain the confidence of the population, the loss of which had in the larger cities led to the increased powers of the mayor. The arguments advanced by those who favored the concentration of power in the executive were strengthened by the great difficulty of exercising popular control in the large centres of population. It was felt, however, that this step, which seemed to be dictated by the requirements of the case, would not be necessary in the smaller cities, and that here at least it would be possible to maintain the democratic and representative institutions of the earlier period of our history. At the present time, however, the same distrust of city councils is manifesting itself in different parts of the country. Simultaneously in New York and Pennsylvania the movement to take from councils its most important powers seems to be gaining ground. The present bill takes from councils all appointive powers, and places full power of appointment and removal of all city officers except the city judge, city treasurer and members of the Common Council in the hands of the mayor. He appoints the city attorney, city clerk, city assessor, five commissioners of public works, five commissioners of health, three commissioners of charities, one commissioner of police, and the commissioners of public schools, whose number is to be one more than twice as many as the city has wards. The Common Council, which in all the cities of New York has but one chamber, is to be composed of two representatives from each ward and a president. The president and one member from each ward are to be elected by the voters of the city at large.

An important change in the new bill is the more distinct formulation of the doctrine of general corporate capacity. The Common Council is to have the power to pass any ordinances or resolutions, not repugnant to the constitution and laws of the State, for any local purpose pertaining to the government of the city and the management of

*The greater portion of this section is based on a communication from James W. Pryor, Esq., Secretary City Club, New York City.

its business, the preservation of order, peace and health, and the safety and welfare of the city and its inhabitants. It is difficult to foresee the interpretation which the courts will give to this clause. At first glance, the grant of powers seems sufficiently broad to free the city from complete dependence upon the State Legislature in undertaking new functions. The position of the courts, however, in construing the powers of municipalities, has tended to greatly limit such powers, even where the words of the grant contained in the law seem to warrant a broader interpretation.

Common School Administration. Various reform organizations of New York City, with the City Club at their head, are earnestly advocating the reorganization of the school administration. The present system of local school boards, known as ward trustees, has proven unsatisfactory, owing to the nature of the powers given to them. At present the members of these local boards are appointed by the Central Board of Education. They nominate all school principals; appoint all teachers and janitors, make all reports as to the condition of school buildings and select the school sites. There is here a combination of administrative and pedagogical functions which require a far higher order of talent than such local boards usually command. Irrespective of the qualifications of members of these local boards, it is evident that the lack of uniform standards must work harm to the development of a unified system of public education. As a matter of fact, local influence has played an important part in the appointment of teachers and in the management of schools. If such local boards have a reason for existence, it is mainly, if not solely, to exercise subordinate powers of control in the school administration; to act as agents of the central board in reporting on the condition of schools, exercising general supervision over the enforcement of compulsory education laws, etc. In accordance with this principle, the bill introduced into the State Legislature and advocated by the City Club, the Citizens' Committee on Public School Reform, and the Public Education Association, provides for the abolition of the local boards and the transference of their educational functions to the Central Board of Education, to be there performed by expert educational officers, such as the city superintendent of schools and his staff. The administrative functions of the local boards, so far as they relate to the erection and care of buildings, are to be handed over to a city superintendent of buildings, who is to act under the general supervision of the board. The bill embodying these provisions, known as the Pavey Bill, has been passed by both Houses of the Legislature, and will undoubtedly receive the approval of the Governor, as it was owing to a special message sent by him to the Legislature that the bill received immediate consideration.

Civil Service. One of the most important bills relating to municipal government, now pending in the Legislature, relates to the reorganization of the civil service. This bill was prepared by the Civil Service Reform Association, upon the lines of the bill which was proposed last year by the senate committee which then reported upon the condition of the State civil service and the administration of the law at that time. The bill has, therefore, had the most careful preparation, and has been worked over until it may well be supposed to be reduced to the best possible form. Since the recent decision of the court of appeals in the case of the people *ex rel.* John W. McClelland, appellant, *vs.* James A. Roberts, as Comptroller of the State of New York, respondent, the sole question as to this bill is whether it is in the proper form to accomplish its purpose. The decision is to the effect that the new provisions of the State constitution, requiring that the civil service of the State and of its political divisions shall be conducted upon the merit system, makes the civil service act of 1883 applicable to all branches of the State service, including those which the court of appeals held to be exempted under certain provisions of the former constitution. The decision contains a distinct intimation that the new provisions of the constitution are self-operative, and that no act of the legislature is required to complete the duty of the executive officers having charge of departments to put this system into practice. It is, however, highly desirable that the legislature should enact a general law, so that there may be an harmonious system throughout the State and in all departments and political divisions.

Pennsylvania.—A convention of delegates from cities of the third class of the State of Pennsylvania was held in Reading on the eleventh and twelfth of March, 1896. The purpose of the convention was to consider the present condition of legislation affecting the cities of this class. Under the decision of the Supreme Court of the State, the classification of cities, a subject not distinctly provided for in the Constitution, is restricted to three classes. Conformably to this decision, the three classes at present existing are, first, those with a population of 600,000 and over; second, cities with a population of between 100,000 and 600,000; third, cities with less than 100,000. Of the first class, Philadelphia is the only city; there are but two cities of the second class, and twenty-six of the third. The Constitution of 1874 prohibited the incorporation of cities by special enactment, and immediately after its adoption the Legislature passed a general act of incorporation for cities of the third class. Most of these, however, had received special charters prior to this time. The Act of 1874, as well as the later enactments of 1889, gave to the cities the option of remaining under their old charters or accepting the provisions of the

new acts. Both methods were adopted, so that while some of the cities are being governed under the Act of 1889, others still retain their earlier charters. But even the general incorporation acts had proven unsatisfactory in many respects, owing to the fact that the minute provisions as regards the organization of municipal departments and procedure in municipal service had in time come to be real obstacles to progress, owing to changes in economic and social conditions in these cities.

The great differences in the population of cities of this class made it impossible to frame an act minutely prescribing the form of government which would apply with equal effect to all the cities. The experience of nearly every State has shown that a city with a population of 100,000 cannot be effectively administered with the same machinery of government, scope of functions, and methods of procedure as a city with a population of 10,000. The convention, at its two sessions, discussed these various questions, and, before adjourning, appointed a committee to consist of the city solicitors of twenty-six cities to consider and report upon the changes in legislation to be recommended to the Legislature. Two courses are open to this committee. The first is to examine and possibly to reconstruct the principles upon which the Legislature has hitherto acted in framing city charters, with a view to giving the cities wider powers in determining their form of government. The second is to recommend changes in specific sections of the act at present in force. While the former course would result in a more permanent basis for the development of the municipalities of the State, the probability of immediate adoption of such recommendations by the State Legislature would be materially reduced. To this we must add the unfortunate uncertainty which the attitude of the Supreme Court in dealing with the constitutionality of legislation of this character has introduced into the political life of the State. The view, for instance, expressed in a number of cases, that legislation which would tend to increase diversity of form in the government of the cities of any class is unconstitutional, as repugnant to the provisions prohibiting local and special legislation, has contributed materially to this uncertainty. In fact, it has had a deadening influence on efforts to reform manifest defects in present legislation.

Baltimore.*—The extraordinary political upheaval in Maryland at the election of November, 1895, effected many changes in the city government of Baltimore. Largely as the result of a widespread reform sentiment and of an overwhelming independent vote, a Republi-

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can mayor was elected for the first time in thirty years and large Republican majorities resulted in both branches of the City Council. It soon became evident that the harmony in municipal administration thus promised was more apparent than real. The Mayor announced his intention of filling offices without strict regard to party lines and proceeded to do so, despite remonstrance, and without consulting members of City Council to the degree by them deemed fit. Matters culminated on February 24 when the largest number of appointments of the Mayor were sent to the Council for confirmation. Several Democrats and certain Republicans not in entire sympathy with the party organization were therein appointed to salaried and unsalaried offices. Upon these grounds the Council refused immediate confirmation to the entire list. The Mayor announced his intention of remaining firm in his attitude and the Republican majority in the Council proceeded to radical measures.

An anomalous provision of the city charter—which itself has been well described as "an incongruous medley of constitutional provisions and statutes enacted at various times and often for merely temporary purposes"—authorizes the Mayor and City Council to pass ordinances regulating the manner of appointing persons to municipal offices. Where no special ordinance exists the appointment is vested in the Mayor, subject to the advice and consent of the Council. It is in the latter manner—in the absence of special ordinances—that all appointments have been made since the passage of the statute.

It was now determined by the Republican Councilmen in caucus to pass special ordinances providing for the direct appointment of officers by the City Council—thus taking away the entire appointing power of the Mayor. Ten years ago similar procedure was threatened by a dissatisfied Council against a recalcitrant mayor, but the plan failed. Upon this occasion conditions were more favorable. On February 27 the first branch of the City Council passed a general ordinance providing that all officers, except those for whom a special term was provided, should be appointed biennially by the Council. Temporary appointments of the Mayor should hold good only until the meeting of the Council. To ensure the success of the plan, special ordinances making a similar change in the case of each particular office were adopted.

The first branch is composed of twenty-two members, of whom eighteen are Republicans and four are Democrats. The vote upon each ordinance was fifteen for and three against. These three members were all Republicans, the Democrats absenting themselves. In the second branch—composed of eleven members of whom eight are Republicans and three Democrats—the ordinances were passed by a

vote of eight for and none against, the Democrats similarly absenting themselves. The ordinances were now sent to the Mayor for approval or veto. The Mayor is allowed five "legislative days" for action. In order to lessen the time available the Council proceeded to meet daily, instead of weekly as hitherto, until the ordinances should be returned. At the first of these subsequent meetings additional specific ordinances were passed changing the power of appointment from Mayor to Council of almost every remaining officer. A general ordinance was also passed similarly transferring the power of removal.

The high-handed action of the Council evoked a storm of popular protest. The Mayor at once announced his intention of vetoing the ordinances and maintaining the position he had taken. Bills were introduced into the Maryland Legislature, then in session at Annapolis, one vesting the absolute power of appointment in the hands of the Mayor, the other limiting the power of the Council to mere confirmation and rejection. Both measures failed of passage.

On March 4, at the expiration of his time limit, the Mayor returned the ordinances with his veto. The success of the whole plan now turned upon the power of the Council to secure the three-fourths vote necessary by statute to pass the ordinances over a veto. By the rules of the second branch, eight is regarded as a three-fourths vote of eleven, and this number represented the full strength of the Republicans in this branch, all of whom were pledged to sustain the ordinances. In the first branch, the Republican forces were weakened by the determination of the three members, who had, from the first, opposed the ordinances, to sustain the veto. This left but fifteen votes for over-riding the veto, and placed the key to the situation in the hands of the four Democrats, who publicly refused to commit themselves as to what their course of action would be at the critical time.

Pending this uncertainty, action upon the vetoes was postponed temporarily. On March 6, a committee of the fifteen Republicans waited upon the Mayor in the hope of effecting some compromise. The specific ground of complaint was the appointment of Democrats to salaried offices. The Mayor refused to recede from his original position and the breach was appreciably widened. On March 9, the ordinances were passed over the Mayor's veto in the first branch by a vote of fifteen to four. An analysis of the vote shows conclusively that the Republicans secured the support of the Democratic quartette; hence of the four members, two absented themselves, one abstained from voting, and but one joined the Republican trio who voted to sustain the veto. In the second branch, the ordinances were passed by a vote of seven to two—the two opposed being Democrats; one Democrat and one Republican were absent because of *bona fide* illness.

The legal right of the Council, under the provision of the charter, to pass ordinances changing the manner of appointing officers, in the manner indicated—had been generally admitted. Doubt was expressed as to whether the three-fourths vote necessary to over-ride a veto meant three-fourths of the total membership of each branch, or simply of those members present. It was by the latter interpretation that the ordinances were passed over the veto, and it was upon this point that the Mayor proposed to carry the matter into the courts.

On March 14 one of the Council-elected officials presented himself to the Mayor to receive the oath of office as required by statute. This the Mayor refused to do upon the ground that the election was illegal. A petition for writ of mandamus was promptly presented in the Superior Court and the Mayor has been required to show cause why the writ should not be issued. It is understood that no demurrer will be filed to the petition and that the Mayor through counsel will plead to the allegations of the petition. It is also unlikely that a pro forma decree in the lower court will be agreed to. Even with no unusual delay, the case will hardly be considered by the Court of Appeals before October, and it is not unlikely that municipal offices will be filled by their present incumbents until next November when the situation may be radically changed by the results of Councilmanic elections.

FOREIGN CITIES.

London.—The annual report of the London Reform Union gives a most encouraging account of the progress of the movement toward unification during 1895. The object of this Union is primarily to effect the consolidation of the administrative county of London as a municipal corporation. This involves the merging of the present city of London with the county. The Union has been doing considerable work in the advocacy of the purchase of the franchise and plant of the various water companies now supplying the large metropolitan district.

The County Council Improvement Scheme, in the East End of London, is rapidly approaching completion. The district of fifteen acres in the worst part of London, which was expropriated by the County Council, has been cleared, and the new tenement houses which are being erected by the municipality are, in some cases, ready for occupancy. These buildings, which are four or five story buildings, have been built with the best of material and in conformity with the requirements of sanitary science. Fully as important, however, as the healthy dwellings now provided will be the rearrangement of

streets which this demolition on a large scale has made possible. In the centre of the district is a large circular public park or garden, and radiating from it are streets from fifty to sixty feet wide. When it is remembered that many of these were formerly twelve or fourteen feet in width, the radical change effected is apparent. In fact, but 55 per cent of the total area is to be built upon.

Glasgow.—The annual report of the Lord Provost of the city contains many facts of interest relating to the municipal activity during the fiscal year 1894–95. The operation of the street railway lines of the municipality continues to be increasingly successful. The city is rapidly extending the system, arranging a system of special rates for short and long distance connections and in other ways emphasizing the social as distinguished from the purely profit-making factors. One of the most interesting developments in connection with the municipal ownership of the street railway lines in Glasgow is the relation between the city and street railway employes. With increasing profits the city has been gradually raising the level of wages, and in other ways promoting the interest of employes. Thus during the last year not only were wages increased, but the city established an insurance fund for sickness or death, to which the city treasury contributes one-half, and the employes the other. The effect is already noticeable in the steadiness of the service and cordial relations with the men, as contrasted with the earlier conditions when the service was under private management.

Improvement Trust. The work of reconstructing the slum districts, which was begun by the city in 1872 by expropriating eighty-eight acres, and has been pursued with unabated energy and vigor since that time, was further advanced toward completion during the year 1895 by the erection of a block of new tenements, costing nearly $250,000. One hundred and forty-seven new houses are at present being erected in the central and eastern districts of the city. Other plans involving the construction of several hundred new houses are being rapidly pushed to completion.

In the work of erecting epidemic hospitals, in which Glasgow has taken the lead among the cities of Great Britain, the present system is to be further developed by the erection of a new institution at a cost of nearly $1,000,000, and with accommodations for 400 or 500 persons. The effect of these hospitals has been to greatly facilitate the police supervision over the health of the community. The excellent accommodations for those suffering from contagious diseases has taken away the greatest incentive to concealment. The marked decrease in the prevalence of contagion, especially in the poorer sections of the city, has already shown itself.